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Filed Electronically

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

**Re: In the Matter of Promoting Broadband for All Americans by
Prohibiting Excessive Charges for Access to Public Rights of Way,
WT Docket No. 16-421**

On behalf of the City Commission of the City of Wauchula, Florida, this letter provides comments to the Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, resulting from Mobilitie, LLC's Petition for Declaratory Ruling filed on November 15, 2016. Wauchula is a small city of approximately 5,000 inhabitants located in Central Florida. It is the county seat of Hardee County, Florida. Wauchula is one of only 35 Florida cities that owns and operates its own electric distribution system. Originally incorporated on June 9, 1888, Wauchula is also the location of one of the largest assemblages of frontier-era historic structures that have been preserved in Florida.

Over the past two decades, the City Commission has expended hundreds of thousands of taxpayer dollars to (1) adopt historic preservation rules within its land development code, (2) create a city historic preservation board, authorize the creation of a historic preservation district, (3) create the Wauchula Community Redevelopment Agency, (4) adopt a city downtown redevelopment and preservation plan that centers on the historic train station and the dozens of historic buildings that surround the station, and (5) invest in restoring and repurposing these same buildings to assist small businesses within the community to start up and grow as a part of the redeveloping downtown area.

These efforts have not been easy. To implement such a plan, the City has had to patiently work with state and local agencies, its citizens, and the private sector to slowly grow businesses and encourage new housing projects that fit within the historical context of Wauchula against the backdrop of the Great Recession of 2008. Every year,

citizen volunteers contribute their own time and money to repaint and refurbish many of the historic homes in the downtown area. It is in this context that we are compelled to speak out against the petition.

We are mindful of the comments that have been filed by the Florida League of Cities and would incorporate the League's comments as a part of our own comments. The League's comments accurately reflect the state of the law in Florida, and are accurate as well regarding specific allegations related to Mobilitie and its related corporate entities. Specifically with regard to the comments relative to regulatory vs. proprietary authority, be advised that the City of Wauchula owns its own rights of way and the poles that lie within the right of way in a proprietary capacity. Those few rights of way within the city limits that are state-owned are controlled by the Florida Department of Transportation, but the City owns separate rights of way for its electric distribution system. This electric distribution system has been owned, controlled, managed, constructed, expanded, and maintained with ratepayer dollars. Under Florida law, the City has acted in its proprietary capacity in the provision of electric distribution facilities and services.

One issue that may be important for the Commission to address is this distinction between local governments exercising authority over rights of way through proprietary capacity as property owners versus regulatory authority. If through proprietary authority as owners of such property, case law indicates that the 1996 Telecommunications Act and other federal restrictions on local regulation of wireless facilities do not apply. Similarly, Florida law addressing local regulation of wireless facilities would not apply. The FCC has no authority to regulate local action with respect to government-owned buildings, parks and other government-owned property. The FCC has not addressed whether federal law and FCC authority would be impacted if local governments are acting under their proprietary versus regulatory authority as to siting in the rights of way. As indicated in the Florida League of Cities' comments, Florida's Department of Transportation's position is that it owns its rights of ways, and thus, is not subject to federal law with respect to allowing wireless facilities.

Wauchula is unaware of any problems, either within our community or within the State of Florida, in the deployment of wireless services. We would echo the comments of the Florida League of Cities in stating that "siting wireless infrastructure in Florida has and is working very well." What has not worked well is the manner in which Mobilitie and its various corporate entities have attempted to mislead local governments in the filing of applications. One of those applications was filed in Wauchula to construct a 75-foot tower right in the heart of our historic district, without regard to the land development code, the existing facilities within the City's right of way, the City's historic preservation code, or the City's community redevelopment plan.

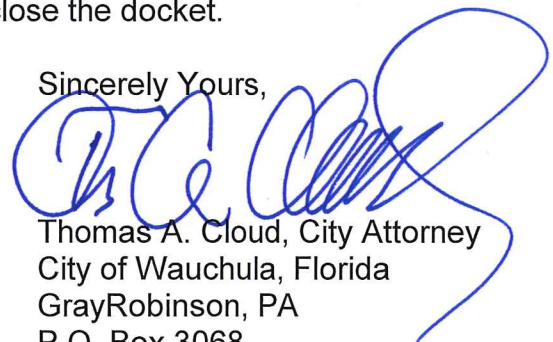
Indeed, Mobilitie's application has been both disruptive and misleading, claiming that they sought to construct "a utility pole." I have personally reviewed at least 35 applications filed by Mobilitie or their related corporate entities in a variety of Florida local jurisdictions, including the City of Plant City, the City of Tampa, the City of Fort

Meade, the City of Fort Lauderdale, Seminole County, Hillsborough County, and, of course, Wauchula. All claim to seek the right to install "utility poles." They are not "utility poles" under Florida law, as Mobilitie claims in its various communications and permit applications throughout Florida. Rather they are "towers" under both federal and Florida law. Yet Mobilitie has never applied to install a tower and has affirmatively sought to avoid local land use review on numerous occasions.

Despite such conduct, the City has expending thousands of dollars in reviewing the Mobilitie applications previously filed. Although the original submittals could have been easily rejected, the City went above and beyond the law by offering to meet with Mobilitie, indicating a willingness to work with the company, and offering other city sites as potential tower sites for use by the company. The City remains ready, willing, and able to work with any applicant seeking to construct and operate communications facilities within the city. What the City will not countenance is any attempt by private corporations or individuals to usurp ratepayer-funded, public assets for the installation of incompatible facilities that wreck the City's decades-old plan to redevelop and restore the local community's economy and historic downtown.

We commend the Commission in its stated intention "to develop a factual record that will help us assess whether and to what extent the process of local land-use authorities' review of siting applications is hindering, or is likely to hinder, the deployment of wireless infrastructure." Based on Mobilitie's actions in Wauchula specifically and Florida generally, experiences of Florida's local governments with Mobilitie, including Wauchula and cities such as Fort Meade and Plant City, and inaccurate assertions by Mobilitie in its Petition, Wauchula would recommend to the Commission that it dismiss Mobilitie's Petition and close the docket.

Sincerely Yours,



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cc: Wauchula City Commission
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